IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

CRL.A.No. 732 of 2002()

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ST.4947/2000 of JUDL.MAGISTRATE OF FIRST CLASS COURT -I, ALAPPUZHA

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APPELLANT: COMPLAINANT

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BABY K.V., AGED 43, S/O.VAVA,
KANAAKAKUNNU VEEDU, NEHRU TROPHY WARD,
ALAPPUZHA.

BY ADV. SRI.R.T.PRADEEP
SRI.BIJILLY JOSEPH

RESPONDENTS: STATE AND ACCUSED

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1. THE STATE OF KERALA, REPRESENTED BY
THE DIRECTOR GENERAL OF PROSEUCTION,
HIGH COURT OF KERALA, ERNAKULAM.

2. V.T.KUTTAPPAN, AGED 50
S/O.THANKAPPAN, VAIDKATHUKARANCHIRA VEEDU,
NEHRU TROPHY WARD, ALAPPUZHA.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD
ON 17/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

**K.R.UDAYABHANU, J**

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Crl.A.No.734 of 2002

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Dated this the 17th day of September, 2007

**JUDGMENT**

The appellant is the complainant who had initiated proceedings under Section 323 of Indian Penal Code. The accused stands acquitted under Section 256(1) of Crl.P.C. as the complainant was absent. It is submitted that the lapse was on account of the wrong noting of the posting date.

2. In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 15.10.2007.

The appeal is allowed.

**K.R.UDAYABHANU,**
**JUDGE**

csl